

____TITLE 47

DEPARTMENT OF LABOR

Article

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ARTICLE 47:10

DEPARTMENT OF LABOR EMPLOYEES' RETIREMENT BOARD

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CHAPTER 47:10:01

GENERAL PROVISIONS

47:10:01:01	Definitions.
47:10:01:02	Exceptions.

47:10:01:01. Definitions. Terms used in this article are defined as follows:

- (1) "Actuarial valuation," the calculation to determine the normal cost, the entry age normal level contribution requirements accumulated to date according to entry age normal cost method, and the present value of the benefits earned to date of a benefit plan, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial survey which takes into account census data of all active members, vested terminated members, and retired members and their beneficiaries under the plan;
- (2) "Approved actuary," an actuary who is a fellow of the Society of Actuaries or who has at least 15 years of service to public employees' funds; any firm

retaining such an actuary on its staff;

- (3) "Beneficiary," the person designated by a member of the retirement plan to receive payments after the death of a member;
- (4) "Benefits," the amounts paid to a member or to the spouse and family or beneficiary;
- (5) "Board," the South Dakota department of labor employees' retirement board;
- (6) "Department," the South Dakota department of labor;
- (7) "Fund," the South Dakota department of labor employees' retirement fund or funds established for the purposes of administration of the retirement plan established in SDCL 61-2-15;
- (8) "Member," a person who is participating in and who has made contributions to the retirement plan, but not a person who withdraws his contributions at termination of employment;
- (9) "Retirement plan or plan ," South Dakota department of labor, job service, unemployment division and office of administrative services retirement plans A and B, entered into by the department prior to the effective date of this article with subsequent amendments.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:01:02. Exceptions. If a definition contained in this article conflicts with a definition in the retirement plan, the

definition contained in the retirement plan controls.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

CHAPTER 47:10:02

GRIEVANCE PROCEDURE AND APPEALS

47:10:02:01 Grievance procedure-informal consultation.
47:10:02:02 Request for formal hearing.
47:10:02:03 Time and place of hearing.
47:10:02:04 Adjournment of hearings.
47:10:02:05 Burden of proof.

* 47:10:02:01. Grievance procedure-informal consultation. A member may request in writing that the board modify or change his benefits. The board may consult informally with the member in an attempt to resolve the request. The board may delegate the informal consultation and receive and act upon a report from the delegate.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:02:02. Request for formal hearing. If the request is not resolved or if a member is aggrieved by an action of the board taken without a hearing, the member may, within 30 days after the date of the board action, petition the board for a hearing. The hearing is a contested case pursuant to SDCL 1-26.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15 and 61-2-15.5.

47:10:02:03. Time and place of hearing--notice. The chairman of the board shall select a time and place for the hearing that is convenient for the board and the petitioning member. The

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hearing may be held telephonically at the chairman's discretion with the member's consent. The board must mail notice of hearing to the member and other interested parties at least seven days before the date of hearing..

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:02:04. Adjournment of hearing. The board may adjourn a hearing to secure evidence necessary for a decision.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:02:05. Burden of proof. The member has the burden of proof.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

CHAPTER 47:10:03

ADMINISTRATION OF RETIREMENT PLAN

47:10:03:01	Amendment and notice.
47:10:03:02	Business name of retirement plan.
47:10:03:03	Fund disbursements for expenses.
47:10:03:04	Use of fund restricted.
47:10:03:05	Annual actuarial valuation of plan.

47:10:03:01. Amendment and notice. The board must notify the members of proposed modifications to the plan. The notice must be in writing and mailed at least 20 days before adoption of the proposal. The board may amend the plan as necessary.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.2, 61-2-15.4, 61-2-15.5.

47:10:03:02. Business name of retirement plan. The board must transact all business and hold all cash in the name of the South

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Dakota department of labor employees' retirement plan.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.4.

47:10:03:03. Fund -- Disbursements for expenses. Expenditures from the fund must be disbursed on warrants supported by vouchers approved by the board.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:03:04. Use of fund restricted. No part of the fund created by SDCL 61-2-15 and this article may be used other than for the benefit of members and their beneficiaries pursuant to the retirement plan, and payment of the necessary expenses to administer the plan.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-15, 61-2-15.5.

47:10:03:05. Annual actuarial valuation of plan. An actuarial valuation of the plan must be made by an approved actuary every plan year.

General Authority: SDCL 61-2-15.5.

Law Implemented: SDCL 61-2-5, 61-2-15.4, 61-2-15.5.

Chapter 47:10:04

DECLARATORY RULINGS

47:10:04:01 Declaratory rulings.

47:10:04:01. Declaratory rulings. A petition for a declaratory ruling under SDCL 1-26-15 must be filed with the secretary of the department who must immediately submit the petition to the board

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for its consideration. The board must consider the contents of the written petition and any written documentation attached to it within 90 days and issue a written ruling. The board must serve a copy of the ruling on the petitioner and any other interested party in addition to the copy required by SDCL 1-26-15 to be filed with the director of the legislative research counsel.

General Authority: SDCL 1-26-15,

Law Implemented: SDCL 1-26-15, 61-2-15.